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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/423,501
Filing Date: November 08, 1999
Appellant(s): UNGRUH ET AL.

Patrick B. Law
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/29/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is deficient because appellant recites a switching oriented application BTAS. However, in the application for the present invention, the acronym used is VTAS.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 6 - 15 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,031,904	AN ET AL.	2-2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 6 – 15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Pat 6,031,904 (An et al.)

As to claim 6, An et al. teaches a system and method for accessing and modifying or administering a subscriber's telephony features, preferences, data, etc. via an Internet access unit 58 or terminal, which reads on the claimed data terminal equipment with a display. (Figs. 3 – 12 and Col. 1, line 41 – Col. 2, line 26) This access unit 58 may connect to the Internet 54 via the PSTN 12 (Fig. 2) and an Internet service provider 60 using one or more service lines 10, the lines being conventional telephone lines, or more advanced lines such as ISDN lines. (Figs. 1 and 2, Col. 2, line 66 – Col. 3, line 6, Col. 4, lines 48 – 51) It is inherent that there are a plurality of telephone exchanges/switches/central offices located within PSTN 12 and that access unit 58 is employing one of these exchanges when dialing out/connecting to the Internet 54. These exchanges make up the PSTN and are used to effect any calls/connections going through the PSTN.

An et al. also teaches a profile repository 18, read as the claimed database pertaining to performance features, which is a memory that stores subscriber profiles

including the various features associated with the subscriber's line(s)/telephone service. (Fig. 1, Col. 3, line 20 – Col. 4, line 4) Note that repository 18 may be located/maintained on a switch, i.e., an exchange, which forms part of the PSTN 12 or may be a separate unit/machine. (Col. 3, lines 27 – 31)

An et al. also teaches as discussed above, effecting an Internet connection. This is accomplished through the use of an web server 50, read as the claimed Internet server, using an Internet browser. (Col. 5, lines 6 – Col. 6, line 27) Because An et al. teaches being able to connect to the Internet 54 via the PSTN, such is indicative of a subscriber using a dial-up modem to connect to the Internet. The access unit 58 therefore must have some switching/conversion application, read as the claimed first switching-oriented application, because there must be some way of converting http/html forms and communications effected on access unit 58 for transmission on conventional telephone lines.

Moreover, it is inherent that web server 50 would also have some type of first "switching-oriented application" because in any type of server that forwards information to another system element, a first application, receives incoming information, while another application, the claimed second "switching-oriented application," would forward/transmit the information to that next system element. In this instance, that next system element is service manager node 16. Note that service manager node 16 may be some intermediate machine, or may be a switch or part of switch that also forms part of the PSTN 12. (Fig. 1, Col. 3, lines 27 – 32, Col. 4, line 57 – Col. 5, line 5) Moreover,

even if a server simply receives information, there still must be some interface or application that effects reception. See also Fig. 16 and Col. 6, line 39 – Col. 9, line 30.

Ultimately, as seen in Fig. 1, a subscriber connects from his/her access unit 58, through the PSTN 12, to the Internet 54 that effects a connection to a web server 50 (which is accessed via Internet 54). Furthermore, server 50 connects to the exchange via service manager node 16 using lines 56 (which are part of a private telephone company network, i.e., a telecommunications connection) using the afore-mentioned inherent, second "switching-oriented application." Therefore, the subscriber may administer his/her features using an Internet browser. (Col. 4, line 48 – Col. 5, line 5)

Note that as an alternative to the above system and method, An et al. also teaches an exchange configuration wherein the web server 50 is run on one of the service manager nodes 16, connected to switch 62 so that the switch 62 realizes the features and contains the database. (Col. 4, line 57 – Col. 5, line 5) This also means that given the first inherent "switching-oriented application" found in/or web server 50, the service manager node 16, itself, could read on the claimed second "switching-oriented application." This is because it is the service manager node 16 function that allows any Internet interaction/requests from a subscriber to be sent to and made understandable by the target exchange, which is providing the telecommunications service/features to the subscriber.

Therefore, even if not inherent, it would be at least obvious for one of ordinary skill in the art at the time the invention was made to employ them in An et al. because such "switching applications" are essential for translating or converting web-based

information into a language or communication understood by the switch. Moreover, the separation of a function or device into two or more functions or devices, as well as where the claimed device or functionality is located does not make for patentability.

Moreover, see Col. 5, lines 26 – 32 and lines 56 – 59. Here, the information transmitted via the Internet is communicated to the profile repositories 18 which are either directly connected to the switch and a switch/service manager or actually located in the switch (Col. 3, lines 27 – 32) and therefore this information again, inherently must be converted into a language understood by the switch. Therefore, again, it is inherent or obvious that the system of An et al. has the claimed first and second "switching-oriented applications."

As to claim 7, see the above rejection of claim 6, wherein it is discussed that the claimed administration is performed via a personal computer, i.e., access unit 58.

As to claim 8, access unit 58 could be located anywhere, in a home, a hotel room, or even a service center. Because the Internet is used and connectivity to the Internet is possible from anywhere where there is some Internet-compatible device (unit 58) a service center itself could use the Internet to administer features. (Col. 1, lines 43 – 48, Col. 4, lines 53 – 56)

As to claim 9, see the rejection of claim 1, wherein it is discussed that access unit 58 may connect to the Internet via PSTN 12 using conventional telephone lines.

As to claim 10, see the rejection of claim 1, wherein it is discussed that the Internet connection may also be effected via an ISDN line or some advanced data line.

As to claim 11, see the rejection of claim 1. Because a subscriber will be administering features to their telephony service, that service must be provided via some first exchange, which has access to their profile. Internet service providers always have and still do provide different telephone numbers for dial up access, for example. These different telephone numbers of course, are associated with different exchanges, any of which would read on the claimed second exchange.

Note as well that the repository 18 is merely a database and it is well known that databases may be located almost anywhere, on their own or as a part of another system element. There are many motivations for locating a database in different locations. One reason is a database located with the querying system element is quicker than querying a remote database. Another reason is that a remotely-located database is less subject to data corruption.

As to claims 12 - 14, see the rejections of claims 7 – 9, respectively.

As to claim 15, see the rejection of claim 10. Note as well that not only does service manager node 16 connect to web server 50 via telephone lines (see the rejection of claim 6), but also connects to the PSTN (if node 16 is separate therefrom), by some manner of telecommunications line.

(11) Response to Argument

Appellant's arguments regarding the "telephone exchange" have been addressed above in the rejection.

Appellant's arguments regarding the first and second switching-oriented applications have also been addressed above in the rejection.

However, for clarification, note that no switch or exchange can readily and directly understand a request that is formulated as an http/html request, which of course is how the request is made by a subscriber using the Internet. Therefore, it is inherent that a translation must be made in order for an exchange in the PSTN to understand a request sent over the Internet.

This is the same reasoning used above regarding the use of a dial-up modem to establish a connection to the Internet. No conventional telephone line has the capability to allow interaction on the Internet directly because DTMF tones and associated telephony signaling are transmitted on conventional lines. These tones and signaling are not the same as used by the Internet and therefore, a modem is used as a switching application to convert that signaling into signaling the Internet understands and vice versa. The modems in this case would read on the claimed "switching-oriented applications." For example, the first modem at the subscriber's end will read on the claimed "first switching-oriented application" and the modem at the web server/Internet service provider end (e.g., AOL) will read on the claimed "second switching-oriented application."

Also, because An et al. teaches that a connection may be made via the PSTN 12 or directly via an ISDN line, such reads on the claimed language, which recites a connection between the data terminal equipment and an Internet server. Moreover, Fig. 3 shows an embodiment of such a direct connection. And in this case, as discussed

above, a first switching-oriented application is inherent or at the least obvious in web server 50. Either embodiment of An et al. reads on the present invention as claimed.

A server is merely a type of computer. In order to send information to the server, it must have some interface or application that will receive that information. This is merely the standard operating method in data communications. Even in a direct PC-internet connection, the TCP/IP protocol and html formats used on the Internet must still be received and processed and turned into a the bits and bytes format that is recognizable by the operating system running on the PC whether it is Microsoft Windows, some version of Unix, etc.

As to Appellant's further arguments regarding the switching-oriented applications, note again, that the web server 50 and the service manager node 16 are interposed physically and/or logically between the Internet and an exchange in the PSTN. Therefore, they mediate communications on the one side from the Internet, and communications to the exchange on the other side. Therefore, there must be at least two "switching-oriented applications" that allow for information to traverse this route – one that handles the Internet side and one that handles the exchange/switch side.

Moreover, as can be seen from this and the above discussion, these two "switching-oriented applications" work together to effect the telecommunications and Internet communications as claimed, contrary to appellant's assertion. An Internet connection is effected between access unit 58 and server 50 using a browser. If this were not true, a subscriber could not perform any sort of administration using the Internet. A telecommunications connection between the server 50 and exchange is also

effected either by way of lines 56 which appellant acknowledges on page 6 of the response or via service manager node 16. (Fig. 1) The very fact that the web server 50 must communicate with the PSTN means there is some telecommunications connection.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Hector A. Agdeppa

June 9, 2004

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